

TAM:JJT:nl

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT L. WARD, JR.	:	
	:	
Plaintiff,	:	
	:	NO. 1:CV-00-1126
v.	:	
	:	
DEFENSE LOGISTICS AGENCY	:	(KANE, J.)
DEFENSE DISTRIBUTION CENTER,	:	
	:	
Defendant.	:	(Electronically Filed)

EXHIBIT TO DEFENDANT'S RESPONSE TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT

VOLUME II
(O'BRIEN'S AFFIDAVIT WITH EXHS. 17 THROUGH 22)

Respectfully submitted,

THOMAS A. MARINO
United States Attorney

Joseph J. Terz
Assistant U.S. Attorney
228 Walnut Street, Suite 220
P.O. Box 11754
Harrisburg, Pennsylvania 17108
Attorney ID. No. PA55480
(717) 221-4482
(717) 221-4582 (Facsimile)
joseph.terz@usdoj.gov

Dated: June 19, 2003

O'Brien Affidavit Exhibit 17

SKOCIK CHIROPRACTIC

AUTHORIZATION FOR ABSENCE

Date 11/21/96This is to certify that Richard W. W.is under my care. In order to avoid aggravation of hisher condition, I recommend that he be excusedfrom: no lifting, avoid workingarms, outstretching or overheaduntil (date) 2 weeksRemarks: Due to sprain conditionDR. Albert J. Skocik D.C.

Albert J. Skocik D.C.

EXHIBIT

O'BRIEN

17

INDIVIDUAL SICK SLIP		DATE
<input type="checkbox"/> ILLNESS <input type="checkbox"/> INJURY		Nov 23, 1992
LAST NAME · FIRST NAME · MIDDLE INITIAL OF PATIENT		ORGANIZATION AND STATION
WARD, Robert		
SERVICE NUMBER	GRADE/RATE	
UNIT COMMANDER'S SECTION		MEDICAL OFFICER'S SECTION
IN LINE OF DUTY		IN LINE OF DUTY
REMARKS		DISPOSITION OF PATIENT
NO		<input type="checkbox"/> DUTY <input type="checkbox"/> QUARTERS <input type="checkbox"/> SICK BAY <input type="checkbox"/> HOSPITAL <input type="checkbox"/> NOT EXAMINED <input type="checkbox"/> OTHER (Specify)
Party Status		REMARKS
		Auto Accident 11/17/92. NO Lifting, avoid work & arms, auto stretch or overhead for 2 weeks.
SIGNATURE OF UNIT COMMANDER		SIGNATURE OF MEDICAL OFFICER
[Signature]		[Signature]

DD FORM 689
1 MAR 83

S/N D102-LF-007-0101 PREVIOUS EDITIONS ARE OBSOLETE.

NO Lifting above my h
RLW

O'Brien Affidavit Exhibit 18

SKOCIK CHIROPRACTIC**AUTHORIZATION FOR ABSENCE**Date 1/6/99This is to certify that Mr. [unclear]
Woodis under my care. In order to avoid aggravation of his
her condition, I recommend that he/she be excused
from: workuntil (date) 1/21/99

Remarks:

DR. Albert J. Skocik

Albert J. Skocik D.C.



O'Brien Affidavit Exhibit 19

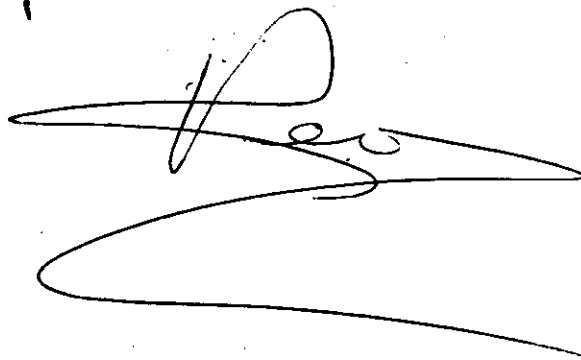
INDIVIDUAL SICK SLIP		DATE
<input type="checkbox"/> ILLNESS <input checked="" type="checkbox"/> INJURY		1/21/99
LAST NAME - FIRST NAME - MIDDLE INITIAL OF PATIENT		ORGANIZATION AND STATION
Ward, Robert		
SERVICE NUMBER	GRADE/RATE	
6022		
UNIT COMMANDER'S SECTION		MEDICAL OFFICER'S SECTION
IN LINE OF DUTY		IN LINE OF DUTY
REMARKS		DISPOSITION OF PATIENT <input checked="" type="checkbox"/> DUTY <input type="checkbox"/> QUARTERS <input type="checkbox"/> SICK BAY <input type="checkbox"/> HOSPITAL <input type="checkbox"/> NOT EXAMINED <input type="checkbox"/> OTHER (Specify)
		REMARKS off 1/6/99 thru 1/20/99 RTD 1/21/99 Continue present duty restrictions
SIGNATURE OF UNIT COMMANDER		SIGNATURE OF MEDICAL OFFICER
		DR Stock / [Signature]

DD FORM 689

S/N 0102-LF-007-0101 PREVIOUS EDITIONS ARE OBSOLETE. U.S. GOVERNMENT PRINTING OFFICE: 1993-504-073/00195

Frank

Mr Ward gave me this card
 the top. I am not
 doing any reports was
 never reported as an
 injury.




O'Brien Affidavit Exhibit 20

INDIVIDUAL SICK SLIP		DATE
<input type="checkbox"/> ILLNESS <input type="checkbox"/> INJURY		3/17/99
LAST NAME - FIRST NAME - MIDDLE INITIAL OF PATIENT		ORGANIZATION AND STATION
Ward, Robert		
SERVICE NUMBER	GRADE/RATE	
6022		
UNIT COMMANDER'S SECTION	MEDICAL OFFICER'S SECTION	
IN LINE OF DUTY	IN LINE OF DUTY	
REMARKS	DISPOSITION OF PATIENT	
	<input checked="" type="checkbox"/> DUTY <input type="checkbox"/> QUARTERS <input type="checkbox"/> SICK BAY <input type="checkbox"/> HOSPITAL <input type="checkbox"/> NOT EXAMINED <input type="checkbox"/> OTHER (Specify)	
	REMARKS	
	RTO 1/21/99. NO Restrictions written on present Dr's note.	
SIGNATURE OF UNIT COMMANDER	SIGNATURE OF MEDICAL OFFICER	
	D. Hennessey / Dr. Skocik	

DD FORM 689 1 MAR 82

5-4 8102 LP-007-0101 PREVIOUS EDITIONS ARE OBSOLETE. U.S. GOVERNMENT PRINTING OFFICE: 1982-304-779/00192

Employee refused to accept this DD 689 from Mr O'Brien. *[Signature]*

EXHIBIT
O'BRIEN
20

O'Brien Affidavit Exhibit 21

Author: Frank O'Brien at DDSP01-PO1
Date: 3/18/99 10:40 AM
Priority: Low
Receipt Requested
TO: Brenda Bever at DDC
CC: Eva Kuntz at DDC
Subject: Robert Ward

----- Message Contents -----

BRENDA

Request a medical letter of clarification be prepared for Robert Ward

BACKGROUND:

May 27, 1998 a letter of Notification to return to Position of Record without Accommodation.

On June 1, 1998 received medical documentation on safety belt limitation.

October 28, 1998 received medical documentation for lite duty restriction with indefinite time frame.

November 21, 1998 medical documentation from chiropractic and DD 689 provided on November 23, 1998.

January 6, 1999, medical documentation from chiropractic provided for one day.

January 21, 1999, DD 689 was provided. I spoke with Dori Duran at the dispensary and she advised me that the last medical on file dated November 21, 1998 only provided for 2 weeks of work restrictions due to a accident. Therefore according to the record when I called Dori on March 17, 1999 to reverify our previous understanding, I then asked to provide me with a updated DD 689. Last evening I tried to talk to Mr. Ward this situation and to provide him my most current information on his restriction, Mr. Ward refused to take a copy of DD 689 dated March 17, 1999. He became upset and said you have my medical and I am on a indefinite restriction. Therefore I still need his status clarified as to what is the problem that he is on a indefinite restriction.

I will fax all the above documents to you.

Frank O'Brien x4779





DEFENSE LOGISTICS AGENCY
DEFENSE DEPOT SUSQUEHANNA PENNSYLVANIA
2001 MISSION DRIVE, SUITE 1
NEW CUMBERLAND, PA 17070-5002

IN REPLY
REFER TO

DDSP-SS

MEMORANDUM FOR MR. ROBERT L. WARD

SUBJECT: Request for Clarification/Update of Medical Documentation

You presented medical documentation from the Colonial Park Family Practice, dated October 28, 1998, signature illegible. The medical documentation reads, "No lifting more than 25 pounds at anytime, indefinitely (Diagnosis: L5-S1 degenerative disc). Also, you provided medical documentation from Dr. Richard G. Manning, dated June 1, 1998. Dr. Manning states, "Should not wear a Body Harness at all to work in". Further, you provided the Occupational Health Clinic with medical documentation dated November 21, 1998, signed by Dr. Albert J. Skocik, D.C., wherein you were restricted to no lifting, and to avoid working with arms outstretched or overhead for a period of two weeks.

You have been in your current position, Materials Handler, WG-6907-05, since December 3, 1995. The essential functions of your position require you to operate an aisle mobile hybrid crane in support of storing and moving a variety of items. You pack and prepare freight for shipment in an automated distribution operation. In the operation of the aisle mobile hybrid crane vehicle you lift, move and position items to be stored within the highrise storage areas. You operate the 18,000 to 22,000 pound cabin (based on load) up and down along a permanently attached 40 to 62 foot vertical rail (the mast), while simultaneously moving the crane along a floor and ceiling (lower and upper) mounted guide rails. The physical requirements of your position require you to stand on hard surfaces maintaining balance for extended periods of time. Requires pushing, pulling and depressing various hand and foot controls which require bending, stooping, reaching, and twisting in tiring and uncomfortable positions, many times all at the same time. **You frequently lift and carry items weighing up to 40 pounds; and may lift greater weights with assistance.** You are regularly exposed to the possibility of electrical shock (AC or DC), cuts, scrapes, bruises, abrasions, and broken bones from falls or falling items. **You are required to wear special safety equipment (i.e., safety shoes, repelling harnesses, etc.).** You are subject to injury from sudden cabin drops of up to 20 feet while operating the aisle hybrid mobile crane.

Our current mission and workload requirements require that your position of record, specifically, Materials Handler, WG-6907-05, be filled to maintain an efficient operation. While I am truly concerned about your health and well being, I need for you to be able to do the full range of your Materials Handler duties. Your claimed

medical restrictions limit you from performing the essential functions of your Materials Handler position.

In that regard, I need a current medical evaluation from your doctor. You need to provide clarification and/or additional information that supports how your medical condition affects your ability to perform your Materials Handler, WG-6907-05 duties, and if your condition is **permanent**. Please note, your doctor should provide current information from his records, preferably on his letterhead stationary, numbered to correspond with the information below:

1. Assessment of your current clinical status and plans for future treatment;
2. Diagnosis, temporary or permanent.
3. Prognosis, including plans or recommendation for future treatment and an estimate of the expected date of full or partial recovery.
4. An explanation of how your medical condition impacts on your overall health and activities, including the basis for a conclusion that restrictions or accommodations are warranted. Estimated date of full recovery;
5. Explanation of the medical basis for any conclusions which indicates the likelihood that you are or are not expected to suffer sudden or subtle incapacitation by carrying out, with or without accommodation, the duties of your Materials Handler, WG-6907-05 position; and
6. Enclosed is a copy of your position description that you should provide to your physician so he has sufficient information to respond to the items concerning your ability to perform in your job and accommodations that might be recommended.

You are responsible for any costs incurred in connection with obtaining this documentation. I have enclosed a copy of your position description to assist your physician in responding to the items concerning your ability to perform your job and accommodation that might be recommended. It is important that you provide him with a copy of the attached position description which outlines the functional requirements and the environmental factors associated with the position.

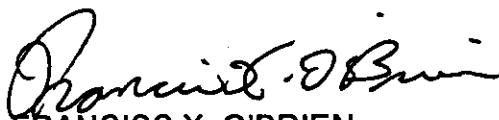
You are advised that in 1993 Congress enacted statutes affecting both private and federal sector employees requiring employers to grant leave or leave without pay to employees under certain circumstances. Under the Family Medical Leave Act, (FMLA), if eligible, you are entitled to a total of 12 administrative work weeks of leave during any 12-month period for a "serious" health condition that makes you unable to perform the duties of your position. You may elect to substitute annual leave or sick leave, if appropriate, for unpaid leave under the FMLA. The leave may be taken intermittently or on a reduced leave schedule when medically necessary

and is foreseeable based on planned medical treatment. The employee must request entitlement under the FMLA prior to taking leave. For additional information under the FMLA you may contact Ms. Brenda Bever, Employee Relations Specialist, at (717) 770-6167.

You are advised of your right to submit an application for disability retirement with the Office of Personnel Management (OPM), if you have not already done so. You are responsible for obtaining the necessary documentation to support your claim and submitting it along with your application to OPM. Ms. Karen Doyle, of the Defense Distribution Center, Human Resources Office, New Cumberland, PA, can assist you with the application. You may reach her at (717) 770-6639.

Your physician should address his/her response to Dr. Potter, Defense Distribution Center, U.S. Army Health Clinic, 2001 Mission Drive, Bldg. 400, Dispensary, New Cumberland, PA 17070.

You are to provide Dr. Potter with the requested medical documentation, within **FOURTEEN CALENDAR DAYS** of receipt of this letter. I have attached a consent to release form that you will need to sign to enable Dr. Potter to discuss your medical documentation with me. Also, you are to notify me when this has been accomplished.


FRANCISC X. O'BRIEN
Chief, Storage Branch
Warehousing Div 1, EDC

Attachments

cc: Dr. Potter

Receipt Acknowledgement _____ Date _____

EMPLOYEE'S SIGNATURE

Employee refused to sign 15 APR 99
CLK April 15 1999

DESCRIPTION (Please Read Instructions on the Back)

1. Agency Position No. 24620N		2. OPM Classification No.	
3. Submission a. New <input type="checkbox"/> b. Modified <input type="checkbox"/> c. Field <input checked="" type="checkbox"/>		4. Employing Office Location New Cumberland, PA	
5. Duty Station * SEE #24 BELOW		6. Financial Statements Required a. Executive Personnel Finance Disclosure <input type="checkbox"/> b. Employment and Finance Interest <input type="checkbox"/>	
7. Pay Labor Standards Act a. Exempt <input type="checkbox"/> b. Nonexempt <input checked="" type="checkbox"/>		8. Position Status a. <input checked="" type="checkbox"/> Competitive b. Excepted (Specify in Remarks) c. SES (Gen.) <input type="checkbox"/> d. SES (CR) <input type="checkbox"/>	
9. Subject to UA Action <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		10. Competitive Level Code 006	
11. Position is: a. Supervisory <input type="checkbox"/> b. Managerial <input type="checkbox"/> c. Neither <input checked="" type="checkbox"/>		12. Sensitivity a. 1-Non-Sensitive <input type="checkbox"/> b. 2-Moderate Sensitive <input type="checkbox"/> c. 3-Critical Sensitive <input type="checkbox"/>	
13. Agency Use		14. Agency Use	
15. Review		16. Review	
17. Name of Employee (if vacant, specify)		18. Name of Employee (if vacant, specify)	

19. Agency or Establishment Logistics Agency		20. Third Subdivision	
21. Distribution Region East		22. Fourth Subdivision	
23. Distribution Depot Susquehanna, PA		24. Fifth Subdivision	
25. Review—This is an accurate description of the major duties and responsibilities of my position.		26. Signature of Employee (optional)	

27. I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational status and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.		28. Typed Name and Title of Higher-Level Supervisor or Manager (optional)	
29. Signature		30. Date	

31. Position Classification Standards Used in Classifying/Grading Position OPM JGS Material Handler, WG-6907, Sept 90 WG-5725, Jun 71 - WG-7002, Feb 70 WG-5704, Nov 68		32. Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.	
33. Signature John L. Brooks		34. Date 7 Apr. 93	

or Review	Initials	Date	Initials	Date	Initials	Date	Initials	Date	Initials	Date
Supervisor										
Reviewer										
Other										

Locations are located at New Cumberland, PA and Mechanicsburg, PA
Assignment - 3-18-96 Condition of Employment: Incumbent must maintain a body weight not in excess of 300 lbs.

JOB SUMMARY

Position performs duties involving the operation of the aisle mobile hybrid crane in support of storing and moving a variety of items. Packs and prepares freight for shipment in an automated distribution operation.

MAJOR DUTIES

Performs the following duties to accomplish all facets of the moving, storing, picking, and packing functions:

Operates an aisle mobile hybrid crane vehicle to lift, move and position items to be stored within the highrise storage areas. Operates the 18,000 to 22,000 pound cabin (based on load) up and down along a permanently attached 40 to 62 foot vertical rail (the mast), while simultaneously moving the crane along a floor and ceiling (lower and upper) mounted guide rails. Moves the hybrid crane from aisle to aisle by manually steering the cabin and mast from one aisle's horizontal guide rails to the next. Uses an assortment/combination of foot and hand control levers, switches, computer controls, and while in a manual mode a steering wheel. Monitors warning lights and meters during cabin operations. Using the cabin onboard material handling devices transports loads to or from storage locations after ensuring weights and dimensions will fit the crane and rack system's rated capacity. Assures loads are stable and balanced. Operates the cabin 'J' head lift system to move palletized items on and off the storage racks and crane. Operates the 'J' head lift by rotating the load, telescoping to adjust for aisle width, and raising the load to adjust to the storage height.

Receives items to be stored either loose, boxed or palletized. Verifies stock destination, NSN, quantity, cube, against storage documentation. Makes a determination based on storage location, quantity on hand, and packaging, if rewarehousing of the item is required. Queries the computer system to identify available locations within the rack and bin storage area. Based on the determined cubic space required, assigns and moves the line items to the new storage location. Reports overs, unders and condition code discrepancies to supervisor immediately for action. Processes and independently completes storage and shipping documentation insuring correctness of quantities, identification criteria, and labeling. Coordinates the transfer of items to and from the storage and retrieval areas. Monitors master computer screens insuring a constant and even flow of items to and from this area. Expedites and coordinates emergency picks through the central supply system, arranging for movement of the item to a consolidation or shipping point. Operates a variety of both manual or automated equipment in the completion of assigned duties, such as: computers, keypads, optical readers, scanners (bar code wands), etc.. Performs operator maintenance on assigned equipment. Inputs and extracts information from the supply system about stored items or a group of items and their designated storage locations.

46

60X

Packs/repacks loose or preboxed items into a limited variety of skid mounted, prefabricated multi-wall or tri-wall containers. Applies a limited variety of packing methods and techniques, determining proper space and filler requirements to maximize space utilization. Uses cushioning materials, such as cardboard and paper to meet a predetermined packing level required for the shipment of items. Upon completion of packing, bands and seals containers; applies marking and labeling.

25%

Operates material handling equipment such as: fork lifts, tugs, storage and retrieval vehicles, platform lifts, conveyors, robotic pallet manipulators, trucks and other general purpose vehicles. Uses equipment to move storage items in and around storage locations outside of the highrise areas. Performs standard operator maintenance on assigned equipment.

15%

Performs other duties as assigned.

SKILLS AND KNOWLEDGE

Position requires skill to operate the aisle mobile hybrid crane and onboard material handling devices and the knowledge of its capabilities and limitations. Operators must be skilled in operating movement and braking devices simultaneously to move the hybrid crane along the lower and upper guide rails while moving the cranes' 18,000 to 22,000 pound cabin (based on load) up and down its mast to heights from 40 to 82 feet (based on highrise storage configuration). Position requires good eye, hand, and foot coordinations to watch cabin and 'J' head operations while loading, unloading or moving items. Operator must be knowledgeable of systems warning indicators and know how to respond to each. Operator must be skilled to avoid quick, sudden or jerky cabin movements which could result in load shifts or cause cables to break. Must have knowledge of proper methods of loading and moving items, both loose and palletized, onto the crane cabin and into storage locations. Position requires an understanding of "centers of balance" and "lift points".

Position requires an in-depth knowledge of the overall warehousing concept, including how to verify storage destination, quantity, cube, and shipping documentation using a manual or computerized system. Knowledge of storage and space utilization is required when rewarehousing stored materials. Must have a knowledge of the processing and handling of overs, unders and condition code discrepancies. Must be knowledgeable of procedures to independently complete storage and shipping documentation insuring correctness of quantities, identification criteria, and labeling. Must be skilled in the operation and maintenance of a variety of manual and automated equipment. Knowledge of automated equipment includes such equipment as: computers, keypads, optical readers, scanners (bar code wands), etc.. Must know how to input or extract information from the supply system about stored items or groups of items and their designated or assigned storage locations.

Position also requires the skill to operate an assortment of fork lifts, tugs, storage and retrieval vehicles, conveyors, robotic pallet manipulators, trucks, and other general purpose vehicles to move items to or from storage locations to the processing areas. Position requires the knowledge of how to perform operator maintenance on assigned equipment.

Must have knowledge of a limited variety of packing methods and techniques. Understands the various pack level codes assigned to insure items are at that level prior to final pack. Must be knowledgeable of all marking and labeling requirements to complete packing for shipment.

RESPONSIBILITY

Employee works independently receiving only general instructions from a leader or supervisor. Work is accomplished following preestablished guidelines as to methods, procedures and techniques.

Worker is responsible for performing equipment safety and maintenance checks to minimize failure and accidents while operating the aisle mobile hybrid crane and other materials handling equipment. Responsible for assuring that all load and equipment limitations are followed and strictly observed. Exercises extreme care when moving the hybrid crane from aisle to aisle under free standing manual conditions observing the 40 to 62 foot mast and cabin clearance and positioning. Work is periodically reviewed for compliance with established guidelines. Observes safety rules in operating manual and automated terminals and equipment.

PHYSICAL EFFORT

Work requires standing on hard surfaces maintaining balance for extended periods of time. Requires pushing, pulling and depressing various hand and foot controls which require bending, stooping, reaching, and twisting in tiring and uncomfortable positions, many times all at the same time. Frequently lifts and carries items weighing up to 40 pounds; may lift greater weights with assistance.

WORKING CONDITIONS

Work is performed within a warehousing environment. Work is usually performed inside (outside when using a tug or fork lift to move items between warehouses) in areas that are hot, cold, or damp. Conditions may be uncomfortable when operating the aisle hybrid mobile crane near the ceiling. May be exposed to dusty, dirty, or greasy conditions. Individual is regularly exposed to the possibility of electrical shock (AC or DC), cuts, scrapes, bruises, abrasions, and broken bones from falls or falling items. Duties require the wearing of special safety equipment (i.e. safety shoes, repelling harnesses, etc.). Individual is subject to injury from sudden cabin drops of up to 20 feet while operating the aisle hybrid mobile crane.

EMPLOYEE'S CONSENT TO RELEASE MEDICAL REPORT

1. Employee Name: ROBERT L. WARD, JR.
2. Date of Birth: 07-24-59
3. Social Security Number: 412-02-6022
4. Person Medical Information Can Be Discussed With:

Defense Distribution Center
Mr. Francis X. O'Brien
Chief, Storage Branch
Warehousing Division I, EDC
(717) 770-4779

5. Employee's Consent to Release of Medical Information

I hereby voluntarily and without duress authorize Dr. Potter to discuss my medical condition to the person specified in 4 above of any and all reports connected with the attached Agency letter.

ROBERT L. WARD, JR.

Date

Employee refused to sign 15 APR. 99

CLK April 15 1999

O'Brien Affidavit Exhibit 22



DEFENSE LOGISTICS AGENCY
DEFENSE DEPOT SUSQUEHANNA PENNSYLVANIA
2001 MISSION DRIVE, SUITE 1
NEW CUMBERLAND, PA 17070-5002

REPLY
REFER TO

DDSP-SS

MEMORANDUM FOR MR. ROBERT L. WARD

SUBJECT: Order of Medical Examination

You are hereby ordered to take a medical examination to determine whether you are able to continue to perform the duties of your Materials Handler, WG-05, position. The reasons for the order to take the medical examination are outlined below:

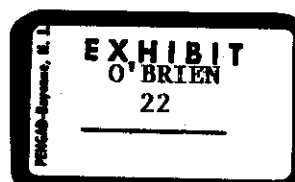
a. As a Materials Handler, you are required to operate an aisle mobile hybrid crane in support of storing and moving a variety of items. You pack and prepare freight for shipment in an automated distribution operation. In the operation of the aisle mobile hybrid crane vehicle you lift, move and position items to be stored within the highrise storage areas. You operate the 18,000 to 22,000 pound cabin (based on load) up and down along a permanently attached 40 to 62 foot vertical rail (the mast), while simultaneously moving the crane along a floor and ceiling (lower and upper) mounted guide rails. The physical requirements of your position require you to stand on hard surfaces maintaining balance for extended periods of time. Requires pushing, pulling and depressing various hand and foot controls which require bending, stooping, reaching, and twisting in tiring and uncomfortable positions, many times all at the same time. You frequently lift and carry items weighing up to 40 pounds; and may lift greater weights with assistance. You are regularly exposed to the possibility of electrical shock (AC or DC), cuts, scrapes, bruises, abrasions, and broken bones from falls or falling items. You are required to wear special safety equipment (i.e., safety shoes, repelling harnesses, etc.). You are subject to injury from sudden cabin drops of up to 20 feet while operating the aisle hybrid mobile crane.

b. In June 1998, your personal doctor prohibited you from wearing a body harness when performing your Materials Handler duties.

c. On October 28, 1998, your personal doctor indefinitely restricted your lifting of more than 25 pounds at anytime. You were diagnosed with L5-S1 degenerative disc disease.

d. On November 21, 1998, your personal doctor restricted your lifting and working with your arms outstretched or overheard for a period of two weeks.

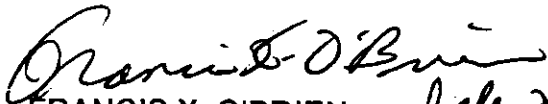
e. You have not performed the full duties of your Materials Handler position since April 28, 1997.



f. There is a direct question about your continued capacity to meet the physical or medical requirements of your position.

An appointment with Dr. Donald Potter, has been scheduled for you on August 11, 1999, at 2:30 p.m., at the health clinic. Dr. Potter will be provided with a copy of this letter, as well as your position description, and a copy of the functional requirements and environmental factors of your position. You have the right to submit medical information from your own physician. Any information you submit will be considered in determining your qualifications for retention in your Materials Handler position.

Failure to comply with this order may be grounds for disqualifying you from your position or for taking disciplinary or adverse action.


FRANCIS X. O'BRIEN
Chief, Storage Branch
Warehousing Div 1, EDC
July 29 1999

cc: Dr. Potter

Receipt Acknowledgement _____ Date _____
EMPLOYEE'S SIGNATURE

Employee refused to sign

Charles J. Dine 7-29-99
Materials Handler Supervisor

see attached 1-2

On 7-29-99 I called Mr. Ward into the Active Items Office to give him an Order for Medical Examination. Mr. Ward refused to sign for the letter and refused to go to the clinic for the scheduled medical examination of Aug. 11, 99 at 2:30 pm. I asked Mr. Ward to sign several times and he refused. This was witnessed by Mr. John Lewis, my team leader in Active Items.

Charles J. Shipie
Material Handler Supervisor

I WAS A WITNESS FOR CHARLIE
HOE AND SHIFT SUPERVISOR FOR GIVING
MR. WARD A FITNESS FOR DUTY LETTER MR.
WARD REFUSED THE LETTER ON 7-29-99
AT 21:47 HRS.

John A. Lewis

TO BE GIVEN TO PERSON
EXAMINED WITH A PRE-
ADDRESSED "CONFIDEN-
TIAL-MEDICAL" ENVELOPE.

UNITED STATES CIVIL SERVICE COMMISSION CERTIFICATE OF MEDICAL EXAMINATION

Form Approved
Budget Bureau
No. 50-R0073

Part A. TO BE COMPLETED BY APPLICANT OR EMPLOYEE (typewrite or print in ink)

1. NAME (last, first, middle) Ward Robert	2. SOCIAL SECURITY ACCOUNT NO. 412 02 6022	3. SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	4. DATE OF BIRTH 7-24-59
5. DO YOU HAVE ANY MEDICAL DISORDER OR PHYSICAL IMPAIRMENT WHICH WOULD INTERFERE IN ANY WAY WITH THE FULL PERFORMANCE OF THE DUTIES SHOWN BELOW? <input type="checkbox"/> YES <input type="checkbox"/> NO (If your answer is YES explain fully to the physician performing the examination)		6. I CERTIFY THAT ALL THE INFORMATION GIVEN BY ME IN CONNECTION WITH THIS EXAMINATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF (signature of applicant)	

Part B. TO BE COMPLETED BEFORE EXAMINATION BY APPOINTING OFFICER

1. PURPOSE OF EXAMINATION <input type="checkbox"/> PREAPPOINTMENT <input checked="" type="checkbox"/> OTHER (specify) Fitness Exam	2. POSITION TITLE Materials Handler, WG-05
3. BRIEF DESCRIPTION OF WHAT POSITION REQUIRES EMPLOYEE TO DO See attached letter	
4. Circle the number preceding each functional requirement and each environmental factor essential to the duties of this position. List any additional essential factors in the blank spaces. Also, if the position involves law enforcement, air traffic control, or fire fighting, attach the specific medical standards for the information of the examining physician.	
<p>A. FUNCTIONAL REQUIREMENTS</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p>① Heavy lifting, 45 pounds and over</p> <p>2. Moderate lifting, 15-44 pounds</p> <p>3. Light lifting, under 15 pounds</p> <p>④ Heavy carrying, 45 pounds and over</p> <p>5. Moderate carrying, 15-44 pounds</p> <p>6. Light carrying, under 15 pounds</p> <p>⑦ Straight pulling (/ hours)</p> <p>⑧ Pulling hand over hand (/ hours)</p> <p>⑨ Pushing (/ hours)</p> <p>10. Reaching above shoulder</p> <p>⑪ Use of fingers</p> <p>⑫ Both hands required</p> <p>⑬ Walking (/ hours)</p> <p>⑭ Standing (/ hours)</p> </div> <div style="width: 30%;"> <p>15. Crawling (/ hours)</p> <p>⑫ Kneeling (/ hours)</p> <p>⑬ Repeated bending (/ hours)</p> <p>18. Climbing, legs only (/ hours)</p> <p>⑮ Climbing, use of legs and arms</p> <p>⑯ Both legs required</p> <p>⑰ Operation of crane, truck, tractor, or motor vehicle</p> <p>⑱ Ability for rapid mental and muscular coordination simultaneously</p> <p>23. Ability to use and desirability of using firearms</p> <p>⑲ Near vision correctable at 13" to 16" to Jaeger 1 to 4</p> </div> <div style="width: 30%;"> <p>⑳ Far vision correctable in one eye to 20/20 and to 20/40 in the other</p> <p>26. Far vision correctable in one eye to 20/50 and to 20/100 in the other</p> <p>27. Specific visual requirement (specify)</p> <p>⑳ Both eyes required</p> <p>⑳ Depth perception</p> <p>⑳ Ability to distinguish basic colors</p> <p>⑳ Ability to distinguish shades of colors</p> <p>⑳ Hearing (aid permitted)</p> <p>33. Hearing without aid</p> <p>34. Specific hearing requirements (specify)</p> <p>⑳ Other (specify) Clear Speech</p> <p>⑳ OCCASIONAL TRAVEL</p> <p>⑳ MUST PASS PASS Emotional + mental stability.</p> </div> </div> <p>B. ENVIRONMENTAL FACTORS</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p>1. Outside</p> <p>② Outside and inside</p> <p>3. Excessive heat</p> <p>4. Excessive cold</p> <p>5. Excessive humidity</p> <p>6. Excessive dampness or chilling</p> <p>7. Dry atmospheric conditions</p> <p>⑧ Excessive noise, intermittent</p> <p>⑨ Constant noise</p> <p>⑩ Dust</p> </div> <div style="width: 30%;"> <p>11. Silica, asbestos, etc.</p> <p>⑫ Fumes, smoke, or gases</p> <p>⑬ Solvents (degreasing agents)</p> <p>⑭ Grease and oils</p> <p>15. Radiant energy</p> <p>⑬ Electrical energy</p> <p>⑬ Slippery or uneven walking surfaces</p> <p>⑬ Working around machinery with moving parts</p> <p>⑬ Working around moving objects or vehicles</p> </div> <div style="width: 30%;"> <p>⑳ Working on ladders or scaffolding</p> <p>21. Working below ground</p> <p>22. Unusual fatigue factors (specify)</p> <p>23. Working with hands in water</p> <p>24. Explosives</p> <p>⑳ Vibration</p> <p>⑳ Working closely with others</p> <p>⑳ Working alone</p> <p>28. Protracted or irregular hours of work</p> <p>⑳ Other (specify) FLAMMABLE</p> <p>⑳ TOXIC</p> <p>⑳ POISONS</p> <p>⑳ CORROSIVE</p> </div> </div>	

Part C. TO BE COMPLETED BY EXAMINING PHYSICIAN

1. EXAMINING PHYSICIAN'S NAME (type or print)	3. SIGNATURE OF EXAMINING PHYSICIAN (signature) (date)
2. ADDRESS (including ZIP Code)	<p>IMPORTANT: After signing, return the entire form intact in the pre-addressed "Confidential-Medical" envelope which the person you examined gave you.</p>

POSITION DESCRIPTION

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25620N

1. Position Title		2. Series		3. Duty Station		4. OPM Certification No.	
Redescription		New <input type="checkbox"/> MODTS <input type="checkbox"/> Field <input checked="" type="checkbox"/>		New Cumberland, PA		* SEE 424 BELOW	
Reestablishment		Other <input type="checkbox"/>		7. Fair Labor Standards Act		8. Financial Statements Required	
Explanation (Show any positions replaced)		Exempt <input type="checkbox"/> Nonexempt <input checked="" type="checkbox"/>		Executive Personnel Financial Disclosure <input type="checkbox"/>		Employment and Financial Interests <input type="checkbox"/>	
Replaces PD# 19280N and 19770N		10. Position Status		11. Position is:		12. Sensitivity	
		Competitive <input checked="" type="checkbox"/>		Supervisory <input type="checkbox"/>		1-Non-Sensitive <input type="checkbox"/>	
		Excepted (Specify in Remarks)		Managerial <input type="checkbox"/>		3-Critical Sensitive <input type="checkbox"/>	
		SES (Gen.) <input type="checkbox"/> SES (CR) <input type="checkbox"/>		Neither <input checked="" type="checkbox"/>		2-Noncritical Sensitive <input type="checkbox"/>	
						4-Special Sensitive <input type="checkbox"/>	
						13. Competitive Level Code	
						006	
						14. Agency Use	
Classified/Graded by		Official Title of Position		Pay Plan		Occupational Code	
U.S. Office of Personnel Management				WG		6907	
Department, Agency or Establishment						05	
Second Level Review						7 Apr 93	
First Level Review		Materials Handler					
Recommended by Supervisor or Rating Office							
Organizational Title of Position (if different from official title)				17. Name of Employee (if vacant, specify)			

Department, Agency, or Establishment		c. Third Subdivision	
Defense Logistics Agency			
First Subdivision		d. Fourth Subdivision	
Defense Distribution Region East			
Second Subdivision		e. Fifth Subdivision	
Defense Distribution Depot Susquehanna, PA			

Employee Review—This is an accurate description of the major duties and responsibilities of my position.

Supervisory Certification. I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationship and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.

Type Name and Title of Immediate Supervisor

Type Name and Title of Higher-Level Supervisor or Manager (optional)

Classification/Job Grading Certification. I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.

22. Position Classification Standards Used in Classifying/Grading Position

OPM JGS Material Handler, WG-6907, Sept 90

WG-5725, Jun 71 - WG-7002, Feb 70

WG-5704, Nov 68

Typed Name and Title of Official Taking Action

Dale Brooker

Personnel Management Specialist

Signature: Dale L. Brooker

Date: 7 Apr 93

Pos. or Review	Initials	Date	Initials	Date	Initials	Date	Initials	Date	Initials	Date
Employee (optional)										
Supervisor										
Classifier										

Remarks

*Positions are located at New Cumberland, PA and Mechanicsburg, PA

Amendment - 3-18-96 Condition of Employment: Incumbent must maintain a body weight not in excess of 300 lbs.

JOB SUMMARY

Position performs duties involving the operation of the aisle mobile hybrid crane in support of storing and moving a variety of items. Packs and prepares freight for shipment in an automated distribution operation.

MAJOR DUTIES

Performs the following duties to accomplish all facets of the moving, storing, picking, and packing functions:

Operates an aisle mobile hybrid crane vehicle to lift, move and position items to be stored within the highrise storage areas. Operates the 18,000 to 22,000 pound cabin (based on load) up and down along a permanently attached 40 to 62 foot vertical rail (the mast), while simultaneously moving the crane along a floor and ceiling (lower and upper) mounted guide rails. Moves the hybrid crane from aisle to aisle by manually steering the cabin and mast from one aisle's horizontal guide rails to the next. Uses an assortment/combination of foot and hand control levers, switches, computer controls, and while in a manual mode a steering wheel. Monitors warning lights and meters during cabin operations. Using the cabin onboard material handling devices transports loads to or from storage locations after ensuring weights and dimensions will fit the crane and rack system's rated capacity. Assures loads are stable and balanced. Operates the cabin 'J' head lift system to move palletized items on and off the storage racks and crane. Operates the 'J' head lift by rotating the load, telescoping to adjust for aisle width, and raising the load to adjust to the storage height.

Receives items to be stored either loose, boxed or palletized. Verifies stock destination, NSN, quantity, cube, against storage documentation. Makes a determination based on storage location, quantity on hand, and packaging, if rewarehousing of the item is required. Queries the computer system to identify available locations within the rack and bin storage area. Based on the determined cubic space required, assigns and moves the line items to the new storage location. Reports overs, unders and condition code discrepancies to supervisor immediately for action. Processes and independently completes storage and shipping documentation insuring correctness of quantities, identification criteria, and labeling. Coordinates the transfer of items to and from the storage and retrieval areas. Monitors master computer screens insuring a constant and even flow of items to and from this area. Expedites and coordinates emergency picks through the central supply system, arranging for movement of the item to a consolidation or shipping point. Operates a variety of both manual or automated equipment in the completion of assigned duties, such as: computers, keypads, optical readers, scanners (bar code wands), etc.. Performs operator maintenance on assigned equipment. Inputs and extracts information from the supply system about stored items or a group of items and their designated storage locations.

60X

Packs/repacks loose or preboxed items into a limited variety of skid mounted, prefabricated multi-wall or tri-wall containers. Applies a limited variety of packing methods and techniques, determining proper space and filler requirements to maximize space utilization. Uses cushioning materials, such as cardboard and paper to meet a predetermined packing level required for the shipment of items. Upon completion of packing, bands and seals containers; applies marking and labeling.

25%

Operates material handling equipment such as: fork lifts, tugs, storage and retrieval vehicles, platform lifts, conveyors, robotic pallet manipulators, trucks and other general purpose vehicles. Uses equipment to move storage items in and around storage locations outside of the highrise areas. Performs standard operator maintenance on assigned equipment.

15%

Performs other duties as assigned.

SKILLS AND KNOWLEDGE

Position requires skill to operate the aisle mobile hybrid crane and onboard material handling devices and the knowledge of its capabilities and limitations. Operators must be skilled in operating movement and braking devices simultaneously to move the hybrid crane along the lower and upper guide rails while moving the cranes' 18,000 to 22,000 pound cabin (based on load) up and down its mast to heights from 40 to 62 feet (based on highrise storage configuration). Position requires good eye, hand, and foot coordinations to watch cabin and 'J' head operations while loading, unloading or moving items. Operator must be knowledgeable of systems warning indicators and know how to respond to each. Operator must be skilled to avoid quick, sudden or jerky cabin movements which could result in load shifts or cause cables to break. Must have knowledge of proper methods of loading and moving items, both loose and palletized, onto the crane cabin and into storage locations. Position requires an understanding of 'centers of balance' and 'lift points'.

Position requires an in-depth knowledge of the overall warehousing concept, including how to verify storage destination, quantity, cube, and shipping documentation using a manual or computerized system. Knowledge of storage and space utilization is required when rewarehousing stored materials. Must have a knowledge of the processing and handling of overs, unders and condition code discrepancies. Must be knowledgeable of procedures to independently complete storage and shipping documentation insuring correctness of quantities, identification criteria, and labeling. Must be skilled in the operation and maintenance of a variety of manual and automated equipment. Knowledge of automated equipment includes such equipment as: computers, keypads, optical readers, scanners (bar code wands), etc.. Must know how to input or extract information from the supply system about stored items or groups of items and their designated or assigned storage locations.

Position also requires the skill to operate an assortment of fork lifts, tugs, storage and retrieval vehicles, conveyors, robotic pallet manipulators, trucks, and other general purpose vehicles to move items to or from storage locations to the processing areas. Position requires the knowledge of how to perform operator maintenance on assigned equipment.

Must have knowledge of a limited variety of packing methods and techniques. Understands the various pack level codes assigned to insure items are at that level prior to final pack. Must be knowledgeable of all marking and labeling requirements to complete packing for shipment.

RESPONSIBILITY

Employee works independently receiving only general instructions from a leader or supervisor. Work is accomplished following preestablished guidelines as to methods, procedures and techniques.

Worker is responsible for performing equipment safety and maintenance checks to minimize failure and accidents while operating the aisle mobile hybrid crane and other materials handling equipment. Responsible for assuring that all load and equipment limitations are followed and strictly observed. Exercises extreme care when moving the hybrid crane from aisle to aisle under free standing manual conditions observing the 40 to 62 foot mast and cabin clearance and positioning. Work is periodically reviewed for compliance with established guidelines. Observes safety rules in operating manual and automated terminals and equipment.

PHYSICAL REPORT

Work requires standing on hard surfaces maintaining balance for extended periods of time. Requires pushing, pulling and depressing various hand and foot controls which require bending, stooping, reaching, and twisting in tiring and uncomfortable positions, many times all at the same time. Frequently lifts and carries items weighing up to 40 pounds; may lift greater weights with assistance.

WORKING CONDITIONS

Work is performed within a warehousing environment. Work is usually performed inside (outside when using a tug or fork lift to move items between warehouses) in areas that are hot, cold, or damp. Conditions may be uncomfortable when operating the aisle hybrid mobile crane near the ceiling. May be exposed to dusty, dirty, or greasy conditions. Individual is regularly exposed to the possibility of electrical shock (AC or DC), cuts, scrapes, bruises, abrasions, and broken bones from falls or falling items. Duties require the wearing of special safety equipment (i.e. safety shoes, repelling harnesses, etc.). Individual is subject to injury from sudden cabin drops of up to 20 feet while operating the aisle hybrid mobile crane.

TAM:JJT:nl

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT L. WARD, JR.	:	
	:	
Plaintiff,	:	
	:	NO. 1:CV-00-1126
v.	:	
	:	
DEFENSE LOGISTICS AGENCY	:	(KANE, J.)
DEFENSE DISTRIBUTION CENTER,	:	
	:	
Defendant.	:	(Electronically Filed)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 19th day of June, 2003, she served a copy of the attached

EXHIBIT TO DEFENDANT'S BRIEF IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT

electronically and/or by placing a copy in a postpaid envelope addressed to the person hereinafter named, at the places and addresses stated below, which is the last known addresses, and by depositing said envelopes and contents in the United States Mail at Harrisburg, Pennsylvania to:

Mr. Robert L. Ward, Sr.
1630 Catherine Street
Harrisburg, Pennsylvania 17104

s/ Naomi Losch
Naomi Losch
Legal Assistant